SYNOPSIS OF THE PROPOSED RESEARCH WORK ON THE TOPIC

"ROLE OF JUDICIARY IN PROTECTION OF INTEREST OF CHILD THROUGH PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT - 2012 [POCSO ACT] – A CRITICAL STUDY"

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"ROLE OF JUDICIARY IN PROTECTION OF INTEREST OF CHILD THROUGH PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT- 2012 [POCSO ACT] – A CRITICAL STUDY"

INTRODUCTION

"The true character of society is revealed in how it treats its children."[1]

The most enjoyed period of every human life is his childhood. This is the period where a person is filled with an impeccable amount of energy, enthusiasm and lives a carefree life. Majority of people wishes to return to their childhood after becoming a grown adult and in their old ageand this is in fact true. But not all children had great childhood, they had terrible experiences in their childhood,therefore they do not want to return to their childhood.

In India there is grave violation of rights of children and they have been constantly abused sexually, harassed as well as assaulted. Protection of rights of citizens, specially of children is the constitutionalduty of the state. In India before introduction of Protection of Children from Sexual Offences,2012 [POCSO ACT] there was no specific legislation applicable uniformly throughout the India dealing with child abuse. The only law which was dealing with this subject was India Penal Code, 1860 through its provisions like section 354; section 375 section 377, there was lack of specific legislation.

[1]Nelson Mandela

In India judiciary is one of the most important pillars of democracy and guardian of the Indian constitution. Therefore, researcher has undertaken this research work to examine the adequacy of Indian legislation in context of role played by Indian Judiciary in protection of children from sexual offences.

STATEMENT OF PROBLEM:

The commission of sexual offences is very serious cause of concern in the present society as the crime is against children who brutally affects their lives and future. Though the POCSO ACT, 2012 is made with sole intention of protection of children from sexual offences, the legislation has certain shortcomings.

In view of shortcomings of this legislation the task of interpretation and proper implementation of this legislation is on judiciary especially on Supreme Court and High courts. But the stand of judiciary has not remained constant, judiciary has taken different views on the interpretation of various provisions of POCSO ACT, 2012.

There is a need of a settled preposition of law in terms of interpretation of this legislation as it will ultimately lead to attain the legislative intent with which this statute was enacted. The Indian judiciary in the last decade has delivered much landmark judgment on the POCSO ACT, 2012. so, the researcher aims to study the role of judiciary in protection of interest of child through provisions of POCSO ACT, 2012.

AIMS AND OBJECTIVES OF STUDY:

This Research will be conducted with following amongst other objectives:

1) To analyze the various factors revolving around the menace of child abuse.
2) To study the national and international perspectives of the law on child sexual abuse.
3) To study the law declared by Indian courts for protection of children from sexual offences.
4) To study the role of judiciary in protecting children from sexual offences through POCSO ACT,2012.
5) To study the variety reliefs that can be granted by courts for protection of children from sexual offences.
6) To examine adequacy of Indian legislation on child abuse that is POCSO ACT, 2012.
7) To analyze the effectiveness of law for protection of child abuse& offer suggestions for its protection by Judiciary.

SIGNIFICANCE OF TOPIC OF RESEARCH:

The main objective of POCSO ACT, 2012 is to protect children from offences of sexual assault, sexual harassment, pornography and provide for the establishment of special courts for trial of such offences and matter connected and incidental thereto.

Though the Act is made with specific objectives of protecting children from sexual offences and for providing strict punishments to the culprits of the crime it has certain shortcomings and this does not answer certain emerging issues which cause an impediment in attainment objectives of this Act.

The significance of topic of research is that it brings to light role of Judiciary in regard to protection of children from sexual offences. The research work proposed to be carried out here would show the kind of response our courts have towards the problem of child abuse and grave violation of rights of child. In short proposed research aims to critically analyze the role played by Indian Judiciary in protection of children from sexual offences through the provisions of POCSO, ACT 2012.

AREA OF RESEARCH:

This research work will be carried out with the object of studying role of courts in dealing with protection of children from sexual offences. The cases and controversies revolving around the child abuse. As the judiciary in India especially Supreme Court, High Courts plays vital role in protecting interests of citizens and delivering justice to them, the proposed study would include and cover role of these courts while dealing with the cases regarding child abuse. It will also take into consideration the judgments of foreign courts whichshall show comparatively how Indian judiciary has interpreted and enforced this legislation in order to deal with the issue of child abuse.

REVIEW OF LITERATURE

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[7] 205th Law commission Report of India. 5th February 2008

The researcher has gone through the above-mentioned literature in the forms of reports, journals and the researcher feel that the child sexual abuse menaceis still highly committed against children, the literature falls short in bringing into light the role of judiciary for protection of interest of children by the proper implementation of legislation, therefore the proposed research aims to study the role of judiciary in protection of interest of children from sexual offences through the provisions of

POCSO,ACT 2012.

HYPOTHESIS:

On a preliminary observation of the legal aspects of law on protection of children from sexual offences in Indian scenario the hypothesis formulated for study is that-

a) Has Judiciary in India played sufficient role in protecting the interest of children through the provisions of Protection of Children from Sexual Offences Act, 2012{POCSO Act}?
b) Has judiciary in India interpreted domestic legislation and international conventions harmoniously so as to accommodate new issues in national legislation?
c) Whether Judiciary in India is active in protection of children from sexual offences by evolving legal principles of which later become precedents for lower judiciary?

The above hypothesis will be tested by examining cases decided by Courts in Indian legislative context.

METHODOLOGY:

The study on above aspects of problem of protection of sexual offences against children will be done by following Doctrinal Method of Research. This includes Data Collection Method. The proposed research subject can be studied by studying the cases decided by courts as well as analyzing them and taking in to

consideration their historical background. Hence, these methods have been considered appropriate in view of the nature of problem involved & the hypothesis formulated.

SCOPE &LIMITATION:

The scope of the proposed research work has been concentrated on cases decided by Indian Courts only. So, decisions of foreign Courts will not be taken into consideration.

COLLECTION OF DATA:

As the researcher has taken the secondary method i.e. data collection method, most of the data will be available through published books, reports, articles and Journals published in India & worldwide & therefore library is the best place for collection of data.

PERIOD OF STUDY:

The proposed research work has been concentrated on cases decided by Indian courts before JUNE 2022. The study will have no reference for the law decided after this period.

CHAPTERIZATION:

The present thesis **"ROLE OF JUDICIARY IN PROTECTION OF INTEREST OF CHILD THROUGH PROTECTION OF CHILDREN FROM**

SEXUAL OFFENCES ACT, 2012 [POCSO ACT] – A CRITICALSTUDY" is divided in following chapters. Brief description of contents therein is as under:

CHAPTER 1-INTRODUCTION:

Present chapter aims to give a broad outline of proposed research topic, the backgrounds which the researcher has observed upon which the researcher has formulated his hypothesis, the methodology adopted for study and aims and objectives with which the work has been carried out. It also explains the brief idea of research work.

CHAPTER 2 -CHILD ABUSE: HISTORICAL BACKGROUND.

In 1857 in France first published work on child abuse was done by August Amboise Tardieu well known French pathologist and pioneer of forensic medicine. The child abuse in Indian society is in existence since colonial rule or even prior to it and it brought into the light during early 1990's as a part of feminist movement. Women and children were considered as weaker sections of society and they were sexually abused as they were considered as free property.

CHAPTER 3 –IMPACT OF INTERNATIONAL CONVENTIONS ON THE REGIME OF PROTECTION OF CHILD FROM SEXUAL OFFENCES:

This chapter discusses the law laid down in international instruments & conventions like United Nations Convention on Rights Of Child, 1989, to which India ratified on 11December 1992.Universal Declaration on Human Rights, 1948[UDHR],

The Council of Europe Convention on the protection Of Children against sexual Exploitation and Abuse [Lanzarote Convention 2010], Geneva Convention etc. and its correlation with Indian Law. As India is signatory to various international instruments like United Nations Convention on Rights of Child, 1989, protection of children from sexual offences should be in accordance with international standards& laws should be stringent.

CHAPTER 4 - LEGAL FRAMEWORK FOR PROTECTION OF CHILD FROM SEXUAL OFFENCES:

It deals with study of Indian Legislation for the protection of children from sexual offences through the provision of provisions Protection of Children from Sexual Offences Act, 2012.It will examine adequacy of Indian legislation for protection of children from child abuse.

CHAPTER - 5 STUDIES OF MAJOR SPECIFIC CASES IN INDIA REGARDING CHILD SEXUAL ABUSE:

This chapter basically brings into light various major incidents which happened in India where the grave violation of child rights is done due to brutal commission of sexual offences against children. It will highlight the various facts from the incidences of sexual exploitation against children.

CHAPTER6 - JUDICIAL ROLE IN PROTECTION OF CHILD FROM SEXUAL OFFENCES:

It discusses the legal issues of child abuse dealt with by Courts in India i.e. at the level of the Supreme Court, the High Courts. It discusses the principles & measures which Indian Courts have formulated in the course of dealing with controversies relating to protection of children from sexual offences and thereby doing justice to the victims of child abuse.

CHAPTER 7 -COMPARATIVE STUDY OF CHILD SEXUAL ABUSE IN INDIA WITH THE UNITED NATIONS & UNITED KINGDOM:

As Indian legislation is highly inspired from US & UK, it is necessary to study the US & UK law and cases decided by US & UK courts on the issue of child abuse so as to compare the measures and protection granted by Courts in US, UK & India, in order to provide suggestions for effective implementation of POCSO ACT, 2012 for the cause of facilitating justice to victims.

CHAPTER 8 -CONCLUSION, FINDINGS & SUGGESTIONS:

The present chapter will be concluded by various factors considered in the proposed research work & will give a summary of what work has been done, findings of researcher and suggestions with future usefulness of research work to improve the interpretation as to position of law so that menace of child abuse is dealt with properly & there is sufficient protection to children from sexual offences by Indian Judiciary.

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6) International Journal of Health & Medico Legal Practice.
7) Law Audience Journal.
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